BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.19670 of 2024
and
W.M.P.(MD).Nos.16678 and 16679 of 2024

Tvl.Risvan Agency,
Rep. By its Proprietor Mr.Jahabar Ali. ... Petitioner

Vs.

The State Tax Officer,
Pudukottai-II Assessment Circle,
Pudukottai District. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for records pertaining to the impugned order passed by the respondent vide his order in GSTIN - 33ASPPJ0763L1ZG/2017-2018 dated 30.12.2023 and quash the same as it is illegal and in gross violation of principles of natural justice and further direct the respondent to re-do the assessment afresh after providing an opportunity of personal hearing as per the provisions of the GST Act.

For Petitioner : Mr.A.Satheesh Murugan

For Respondent : Mr.R.Sureshkumar
Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order dated 30.12.2023 relating to assessment year 2017-2018 on the premise that neither the show cause notices nor the impugned order has been served on the petitioner.

2. It was submitted by the learned counsel for the petitioner that the petitioner had not responded to the show cause notice inasmuch as the petitioner was not aware of the show cause notice having been uploaded in the GSTIN common portal and that their accountant had not intimated the said fact to the petitioner. It was further submitted that the impugned order has been passed without physically serving the same on the petitioner and thus unsustainable. On merits, it was submitted that the impugned order proceeds on the basis of an alleged mismatch between GSTR-3B and GSTR-1. It was further submitted that if the petitioner is given an opportunity, they would be able to demonstrate that the above discrepancy does not exist.

3. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of ***M/s.K.Balakrishnan, Balu Cables***

vs. O/o. the Assistant Commissioner of GST & Central Excise in W.P. (MD)No.11924 of 2024 dated 10.06.2024.

4. It was submitted by the learned counsel for the petitioner that with the introduction of GST, there were several technical glitches in the portal and the assessees were also taking time to adapt to the e-mechanism and it was only in view of the same that the petitioner was unable to respond to the above notices and the order of adjudication. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that he may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Additional Government Pleader for the respondent does not have any serious objection.

5. In view thereof, the impugned order is set aside and the petitioner shall deposit 25% of the disputed tax within a period of two (2) weeks from the date of receipt of a copy of this order. On complying with the above condition, the impugned order of assessment shall be treated as show cause notice and the petitioner shall submit its objections within a period of four (4) weeks from the date of receipt of a copy of this order along with supporting documents/material. If any such objections are filed, the same shall be considered by the respondent and orders shall be passed in accordance with law

after affording a reasonable opportunity of hearing to the petitioner. If the above deposit is not paid or the objections not filed within the stipulated period, i.e., two weeks and four weeks from the date of receipt of a copy of this order respectively, the impugned order of assessment shall stand revived.

6. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.08.2024

Index : Yes / No
Internet : Yes/ No
Lm

To
The State Tax Officer,
Pudukottai-II Assessment Circle,
Pudukottai District.

MOHAMMED SHAFFIQ, J.

Lm

W.P.(MD).No.19670 of 2024

19.08.2024